

## **Item LEG05-06 Response Form**

**Title:** Traffic Citations: Electronic Submission of Notice to Appear Citation Forms  
(Pen. Code, § 959.1)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **if modified**
- ☐ **Do not agree** with proposed changes

Comments: \_\_\_\_\_

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**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

Please **write** or **fax** or **respond using the Internet** to:

**Address:** Ms. Romunda Price,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102  
**Fax:** (415) 865-7664      **Attention:** Romunda Price  
**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

**DEADLINE FOR COMMENT: 5:00 p.m. Friday, June 20, 2005**

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.  
All comments will become part of the public record of the council's action..*

## Invitation to Comment (LEG05-06)

Title	Traffic Citations: Electronic Submission of Notice to Appear Citation Forms (Pen. Code, § 959.1)
Summary	Penal Code section 959.1 needs to be amended to update and clarify authority for electronic submission to the courts of notice to appear (NTA) citation forms issued by law enforcement agencies. The proposed amendments would remove outdated references to parking citations, clarify authority for electronic submission of NTAs for nonparking Vehicle Code violations, and standardize requirements regarding electronic signatures for NTA forms.
Source	Traffic Advisory Committee Hon. John H. Tiernan, Chair
Staff	Courtney Tucker, Attorney, 415-865-7611, courtney.tucker@jud.ca.gov
Discussion	<p><u>Standardizing Electronic Citations</u></p> <p>The Traffic Advisory Committee recommends that the Judicial Council sponsor legislation to standardize electronic citations. Standardizing electronic submission of NTA forms would improve (1) the efficiency of judicial administration by reducing data entry workload for the courts, (2) delivery and processing time, and (3) the legibility and completeness of information in the notice and court records. The Judicial Council is authorized to prescribe the form of an NTA that is issued when a person is arrested for misdemeanor or infraction violations of the Vehicle Code or ordinances related to traffic offenses. (Veh. Code, § 40500(b.) Penal Code section 853.9 further authorizes the council to approve notice to appear forms for nontraffic offenses. When a Judicial Council notice to appear form is verified by the issuing officer, it constitutes a complaint. (Veh. Code, § 40513(b) &amp; Pen. Code, § 853.9.)</p> <p><u>Penal Code Section 959.1</u></p> <p>Penal Code section 959.1 authorizes electronic submission of NTA citations to the courts. Section 959.1(a) permits a criminal prosecution to be commenced by filing an accusatory pleading in electronic form. Section 959.1 defines an accusatory pleading to include any citation or NTA issued on a form approved by the Judicial Council. The current section 959.1, enacted in 1988, does not provide clear authority for electronic submission of nonparking traffic citations and contains outdated references to filing parking citations with the courts. A copy of the proposed amendment of section 959.1 is attached at page 4.</p> <p><u>Proposed Amendment of Section 959.1</u></p> <p>The proposed amendment addresses two primary issues. First, section 959.1(c)(4) authorizes courts to receive a notice of parking violation or NTA submitted under article 3 (commencing with section 40200) of chapter 1 of division 17 of the Vehicle Code. However, because article 3 was amended in 1993 to decriminalize parking violations and remove jurisdiction over parking violations from the courts, there is no longer authority for courts to process and adjudicate parking citations, except on appeal. Second, there is no reference in section 959.1 to authority for courts to receive an electronic NTA for a non-parking Vehicle Code violation submitted under chapter 2 of</p>

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division 17 of the Vehicle Code (commencing with section 40300). The proposed amendment resolves these problems by deleting the outdated authorities for parking violations and adding references to authorities for citing nonparking violations of the Vehicle Code.

The provisions in section 959.1 regarding electronic signatures would also be amended to be consistent with current technology and practices. Because section 959.1 was adopted in 1988, it has not included a requirement for an electronic signature of either the defendant or the citing officer. Now that the technology for digitized signatures is available, section 959.1 would be amended to specify that when transmitted in electronic form, the citation or NTA satisfies any requirements that the defendant sign the notice if the transmission includes a digitized facsimile of the defendant's signature on the notice to appear.

Additionally, with the proposed amendment, a citation or NTA filed electronically under section 959.1 would be exempt from any requirement that it be subscribed by the citing officer. With a handwritten notice to appear, Penal Code section 853.9 and Vehicle Code section 40513 specify that for the notice to serve as a complaint, it must be verified. Under Code of Civil Procedure section 2015.5, the issuing officer must subscribe the notice under penalty of perjury, for the notice to be verified. The electronic NTA would satisfy any requirement that the citation or NTA, or any part of it, be verified by the citing officer with a declaration under penalty of perjury if the electronic form indicates which parts of the citation or notice are verified by such a declaration and the name of the officer making the declaration.

### Data Transfer Standards

Updating section 959.1 as proposed would not impede the efforts of the Judicial Council's Court Technology Advisory Committee to develop and implement data transfer standards. Section 959.1(d)(2) of the current and proposed statute simply requires that the data elements of an electronic citation or notice be submitted in a form that the court is able to (1) electronically store and (2) produce in printed form. Any data transfer standards adopted by the courts can be added to section 959.1 or elsewhere at a later time. In addition, the proposed amendment of section 959.1, which provides for capture of a digital signature of the defendant and indicates which parts of the citation or notice are verified by a declaration and the name of the officer making the declaration, is consistent with the current electronic citation system of the California Highway Patrol, which already takes that approach.

Attachment

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Penal Code section 959.1 would be amended to read:

1 959.1. (a) Notwithstanding Sections 740, 806, 949, and 959 or any other provision of the  
2 law to the contrary, a criminal prosecution may be commenced by filing an accusatory  
3 pleading in electronic form with the magistrate or in a court having authority to receive it.

4 (b) As used in this section, accusatory pleadings include, but are not limited to, the  
5 complaint, the information, and the indictment, ~~and any citation or notice to appear issued~~  
6 ~~on a form approved by the Judicial Council.~~

7 (c) A magistrate or court is authorized to receive and file an accusatory pleading in  
8 electronic form if all of the following conditions are met:

9 (1) The accusatory pleading is issued in the name of, and transmitted by, a public  
10 prosecutor or law enforcement agency filing pursuant to Chapter 5c (commencing with  
11 Section 853.5) or Chapter 5d (commencing with Section 853.9), or by a clerk of the court  
12 with respect to complaints issued for the offenses of failure to appear, pay a fine, or  
13 comply with an order of the court.

14 (2) The magistrate or court has the facility to electronically store the accusatory  
15 pleading for the statutory period of record retention.

16 (3) The magistrate or court has the ability to reproduce the accusatory pleading in  
17 physical form upon demand and payment of any costs involved.

18 An accusatory pleading shall be deemed to have been filed when it has been received  
19 by the magistrate or court.

20 When transmitted in electronic form, the accusatory pleading shall be exempt from any  
21 requirement that it be subscribed by a natural person. It is sufficient to satisfy any  
22 requirement that an accusatory pleading, or any part of it, be sworn to before an officer  
23 entitled to administer oaths, if the pleading, or any part of it, was in fact sworn to and the  
24 electronic form indicates which parts of the pleading were sworn to and the name of the  
25 officer who administered the oath.

26 ~~(4)(d)~~ Notwithstanding any other provision of law, ~~a notice of parking violation or a~~  
27 citation or notice to appear issued on a form approved by the Judicial Council may be  
28 received and filed by a court in electronic form, if the following conditions are met:

29 ~~(A)(1)~~ The ~~citation or notice of parking violation to appear~~ is issued and transmitted by  
30 a law enforcement agency prosecuting pursuant to ~~Article 3 (commencing with Section~~  
31 ~~40200) of Chapter 5c (commencing with Section 853.5); Chapter 5d (commencing with~~  
32 Section 853.9); or Chapter 12 of Division 17 of the Vehicle Code (commencing with  
33 Section 40300).

34 ~~(B)(2)~~ The court has (a) the ability to receive the citation or notice to appear in  
35 electronic format; (b) the facility to electronically store the data elements of the citation  
36 or notice of parking violation to appear for the statutory period of record retention; and  
37 (c) the ability to produce those data elements in printed form upon demand and payment  
38 of any costs involved.

39 ~~(C)(3)~~ The issuing agency has the ability to reproduce the citation or notice of parking  
40 violation to appear in physical form upon demand and payment of any costs involved, ~~as~~  
41 ~~provided in Section 40206.5 of the Vehicle Code.~~

42 A citation or notice to appear filed under this subdivision shall be deemed to have been  
43 filed when it has been received by the magistrate or court.

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1    When transmitted in electronic form, the citation or notice to appear is deemed to have  
2    been signed by the defendant if it includes a digitized facsimile of the defendant's  
3    signature on the notice to appear. A citation or notice to appear filed electronically under  
4    this subdivision need not be subscribed by the citing officer. An electronically submitted  
5    citation or notice to appear need not be verified by the citing officer with a declaration  
6    under penalty of perjury if the electronic form indicates which parts of the citation or  
7    notice are verified by such a declaration and the name of the officer making the  
8    declaration.

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